

**Amendment and Response**

Applicant: David R. Dodds et al.

Serial No.: 10/758,333

Filed: Jan. 16, 2004

Docket No.: 200353932US

Title: MODE INDICATOR FOR TRANSCEIVER MODULE

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**REMARKS**

The following remarks are made in response to the Office Action mailed March 29, 2005, in which claims 1, 2, 6-10 and 13-20 were rejected, and claims 3-5, 11 and 12 were objected to. With this Response, claim 3 is amended and claim 6 is canceled. Claims 1-20 remain pending in the application and are presented for reconsideration and allowance.

**Claim Objections**

Claim 3 has been objected to because of the following informalities: Claim 3, line 1 recites, "the molded plastic button". Since claim 2 reciting "the molded plastic button" has been changed to --the colored plastic button--, the Examiner suggests the applicant to amend claim 3 the same as claim 2.

With this Response, claim 3 has been amended as suggested by the examiner. Accordingly, withdrawal of the objection is respectfully requested.

**Claim Rejections under 35 U.S.C. § 112**

Claims 8-17 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Office Action alleges that claim 8, line 2, recites that the housing has an engagement feature, but that "it is not clear what is the engagement feature because claim 8 does not recite what is being engaged with the engagement feature." The Examiner suggests inserting --transceiver module-- in front of "engagement feature."

The rejection under 35 U.S.C. §112, second paragraph, is respectfully traversed. In particular, claim 8, line 3, clearly sets forth that the colored mode indicator is attached to the engagement feature of the housing. It is respectfully submitted that claim 8 thus does clearly recite what is being engaged with the engagement feature. Withdrawal of the rejection under 35 U.S.C. §112, second paragraph, is respectfully requested.

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**Claim Rejections under 35 U.S.C. § 103**

Claims 1, 2, 6-10, 13-20 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Ahrens et al. (U.S. Patent No. 6,789,958 B2) in view of Schwer (U.S. Patent No. 5,741,153).

The Office Action alleges Ahrens et al. discloses a data transmission system comprising a transceiver module 400 with a housing 410, a cage 160, a printed circuit board 130, and an indicator 460. The cage 160 is fixed to the printed circuit board 130 and has an opening 165 and a latch 170 adjacent the opening 165. The housing 410 of the transceiver module 400 is placed into the opening 165 of the cage and is retained within the cage by the latch 170. The transceiver module is removable from the cage by deflecting the latch 170 with a release mechanism 450. The Office Action further alleges the release mechanism is coupled to the housing 410 and is separate from the indicator 460. The indicator 460 is secured to the transceiver module 400 and is shaped to form at least a portion of the receptacle 412 of the transceiver module 400.

The Office Action acknowledges that while Ahrens et al. teaches putting a suitable message on a curved surface 465 of the indicator 460, Ahrens et al. does not disclose putting a color or mode indication on the transceiver module. Also, the Office Action acknowledges that the indicator 460 of Ahrens is not a stationary attachment to a corresponding transceiver module engagement feature. However, the Office Action finds the use of color to be well known and further that it is common knowledge that any desired information can be assigned to the color coding by a user.

Schwer is alleged to disclose modular connectors 10 including a plastic button (mode indicator) having an engagement feature configured for stationary attachment to the modular connectors 10 and for indicating a port number and/or type.

The Office Action therefore concludes that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the indicator taught by Ahrens et al. such that it would have a stationary indicator as taught by Schwer because it only deals with making the indicator separate from a transceiver module (citing *Nerwin v. Erlichman*, 168 USPQ 177, 179, constructing a formerly integral structure in various elements involves only

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routine skill in the art). Further, the Examiner further finds color coding is well known and it is common knowledge that any desired information could be assigned a color coding by a user or a designer. Finally, the Examiner states it is unnecessary that the inventions of the references be physically combinable to render obvious applicant's invention (citing *In re Sneed*, 710 F.2d 1544, 1550, 218 USPQ 385, 389 (Fed. Cir. 1983)). Rather, "the test for obviousness is not whether the features of a reference may be bodily incorporated into the structure of another reference but what the combined teachings of those references would have suggested to those of ordinary skill in the art (citing *In re Keller*, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981)).

The rejection under 35 U.S.C. §103(a), and particularly the Examiner's assertion that it would have been obvious to modify the indicator taught by Ahrens et al. such that it would have a stationary indicator as taught by Schwer because it only deals with making the indicator separate from a transceiver module, is respectfully traversed.

Independent claim 1 recites, in part, that the button engagement feature is configured for stationary attachment to a corresponding transceiver module engagement feature. Ahrens et al, discloses a face plate 460 covering the front of the transceiver 400. The face plate 460 functions both as the indicator for the transceiver module, and as the actuator element of the release mechanism 450. The face plate is pivotally connected to housing 410 such that face plate 460 is rotatable from a first position to a second position (see column 5, lines 1-48). Without a rotating face plate 460, the release mechanism 450 has no actuator element, and the inventive release mechanism described and claimed in Ahrens et al. is rendered inoperable. Because the entire face plate rotates, it is not possible to have an indicator on the device of Ahrens et al. that is configured for stationary attachment to the transceiver 400. That is, there is no space on the face of the transceiver 400 that does not rotate. Thus, the Examiner's assertion that it would be obvious to modify the face plate/indicator 460 of Ahrens et al. in view of Schwer, such that the face plate/indicator 460 is stationary is in direct contradiction to the teaching of Ahrens et al, in which a rotating face plate/indicator 460 is required for operation of the release mechanism 450. Clearly, the combined teachings of the references do not and cannot suggest that the face

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plate/indicator 460 be configured for stationary attachment, when such stationary attachment would render the primary reference inoperable. For at least this reason, the combination of Ahrens et al. and Schwer does not make independent claim 1 obvious, and withdrawal of the rejection under U.S.C. §103(a) is respectfully requested.

Independent claim 8 recites, in part, that the mode indicator remains stationary with respect to the housing. Accordingly, the remarks set forth above with respect to independent claim 1, are equally applicable to independent claim 8. For at least the reasons provided above, the combination of Ahrens et al. and Schwer does not make independent claim 8 obvious, and withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested.

Independent claim 18 recites, in part, “a colored mode indicator attached to the transceiver module, **wherein the colored mode indicator is separate from the release mechanism.**” The Office Action alleges that the release mechanism 450 of Ahrens et al. is separate from the indicator 460. The characterization of Ahrens et al. as set forth in the Office Action is respectfully traversed. In direct contradiction to the characterization in the Office Action, Ahrens et al. states specifically, at column 4, lines 62-63, “release mechanism 450 generally includes a face plate 460”. Further, Figure 4(A) of Ahrens et al. shows that release mechanism 450 includes face plate 460, lever 470, and cam structure 480. In fact, rotation of face plate 460 is necessary to deflect the latch 170 and remove the housing 410 from the cage. Clearly, face plate 460 is an integral and non-separable part of the release mechanism 450. Accordingly, Ahrens et al. does not disclose or make obvious that the mode indicator is separate from the release mechanism, and withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested.

Dependent claim 6 has been canceled from the application, as the subject matter of claim 6 substantially duplicates that of dependent claim 2.

Dependent claims 2, 7, 9-17 and 19-20 depend, either directly or indirectly, from one of independent claims 1, 8 and 18. For at least the reasons set forth above, independent claims 1, 8, and 18 are in allowable condition. Accordingly, the claims depending therefrom are also in

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allowable condition, and withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested.

**Allowable Subject Matter**

Claims 3-5, 11 and 12 have been objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 3-5, 11 and 12 depend from independent claims 1 and 8, either directly or indirectly, which are believed in allowable condition for at least the reasons set forth above. Accordingly, claims 3-5, 11 and 12 are also believed in allowable condition, and Applicant respectfully declines to rewrite the claims in independent form at this time.

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**CONCLUSION**

In view of the above, Applicant respectfully submits that pending claims 1-5 and 7-20 are in form for allowance. Therefore, reconsideration and withdrawal of the rejections and allowance of the claims is respectfully requested.

The Patent Office is hereby authorized to charge Deposit Account No. 50-0471 for any fees due.

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

Respectfully submitted,

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By his attorneys,

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**CERTIFICATE UNDER 37 C.F.R. 1.8:** The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope address to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 11<sup>th</sup> day of May, 2005.

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